

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

Michael Robert Harrington, on behalf of
himself and all others similarly situated,

Plaintiffs

v.

The Diocese of Buffalo, N.Y.
795 Main Street, Buffalo, NY 14203;
St. Andrew's Parish,
1525 Sheridan Drive, Kenmore, NY, 14217-1284;
and
Saint Andrew Country Day School a/k/a St.
Andrew's Country Day School,
1525 Sheridan Drive, Kenmore, NY, 14217-1284

Defendants

Index No.

VERIFIED COMPLAINT

Plaintiff, Michael Robert Harrington, by his attorneys Steven Fox, PC, and
Schröder, Joseph & Associates, LLP, for his Verified Complaint, on behalf of himself
and all other similarly situated persons, alleges as follows:

NATURE OF THE ACTION

1. This action is for damages and attorney's fees resulting from non-consensual touching of Plaintiff, and all other similarly situated persons, by Monsignor Joseph E. Schieder ("Schieder"), deceased, who at all times relevant was an employee of Defendants, and whose actions caused the harms alleged herein. Defendants had a duty to prevent Schieder's actions, but did not.

JURISDICTION AND VENUE

2. This Court has personal jurisdiction over the Defendants pursuant to CPLR 301 and 302, in that each Defendant is a resident of New York, a citizen of New York, or conducts, or at relevant times conducted, activities in New York that give rise to Plaintiff's claims.

3. Venue for this action is proper in the County of Erie pursuant to CPLR 503 because Plaintiff is a resident of Erie County; a substantial part of the events or omissions giving rise to the claims occurred in Erie County; and each of Defendant's principal offices are located in Erie County.

PARTIES

4. Plaintiff, Michael Robert Harrington ("Named Plaintiff" or "Plaintiff"), is an individual, citizen of the United States, residing in Erie County, New York.

5. Plaintiff members of the class are individuals who fit the description below, in paragraph 12.

6. Upon information and belief, members of the Plaintiff class are male; therefore, the male pronoun is used herein. However, Named Plaintiff does not allege only males are in fact members of the class. Therefore, female individuals are included in the allegations herein, regardless of the male pronouns and gender references to members of the Plaintiff class.

7. Defendant, The Diocese of Buffalo, N.Y. ("Diocese"), was incorporated in New York State on or about May 19, 1951, as a domestic, not-for-profit corporation. The

Diocese's principal place of business is in Erie County, New York, at 795 Main Street, Buffalo, 14203.

8. The Diocese operates the parishes, churches, schools, and other activities of the Roman Catholic religion within eight counties of Western New York—Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, and Wyoming.

9. Defendant St. Andrew's Parish ("Parish") is an unincorporated division of the Diocese with a principal place of business located at 1525 Sheridan Drive, Kenmore, New York, 14217-1284. The Diocese established the Parish to provide Diocesan services to a geographic area comprising portions of the Town of Tonawanda, including portions of the Village of Kenmore.

10. Defendant Saint Andrew Country Day School a/k/a St. Andrew's Country Day School ("School"), is a New York State Educational Corporation, non-public elementary school, a religious corporation owned by The Diocese of Buffalo, with a principal place of business located at 1525 Sheridan Drive, Kenmore, New York, 14217-1284. The School teaches pre-kindergarten, full day kindergarten, and grades 1 through 8.

CLASS ACTION ALLEGATIONS

11. Named Plaintiff Michael Robert Harrington brings this action on behalf of himself and all other similarly situated individuals as authorized under Section 901 of the New York Civil Practice Law and Rules ("Section 901").

12. The Section 901 class herein consists of all individuals whose claims have been revived by CPLR § 214-g, who suffered physical, psychological, or other injury or condition as a result of intentional or negligent acts or omissions by one or more of

Defendants Diocese, Parish, and School and Schieder's conduct – while Schieder was an employee of Defendants – which would constitute a "Child Sexual Abuse Case" as defined in CPLR § 214-g, namely: a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against a child less than eighteen years of age, or the use of a child in a sexual performance as defined in section 263.05 of the penal law, or a predecessor statute that prohibited such conduct at the time of the act, which conduct was committed against a child less than eighteen years of age (hereafter collectively referred to as a "Sexual Offense" or a "Child Sexual Abuse").

13. The class action is maintainable under Section 901 because it meets all five requirements set forth in Section 901 (a)(1) through (5).

14. The class members are so numerous under Section 901(a)(1) that joinder of all class members is impracticable in that, upon information and belief, there are dozens – if not hundreds – of individuals against whom Schieder perpetrated one or more Sexual Offenses while employed by the Diocese or under the jurisdiction and control of the Diocese serving outside the Diocese.

15. Questions of fact or law common to the class members predominate over any questions affecting only individual members under Section 901 (a)(2) and are set forth below in paragraph 17 and its subparts.

15.1. Upon knowledge, information and belief, the Diocese employed Schieder in a variety of capacities, performing a range of secular and religious

duties, having a variety of titles, beginning in 1937, including but not limited to: school teacher, school administrator, school headmaster, priest, youth director, public speaker (in person, and on radio and television), author, public relations, real property manager, and missionary, including as presidential advisor to Presidents Dwight D. Eisenhower and John F. Kennedy.

- 15.2. By employing Schieder and assigning him duties which place him in positions to teach, supervise, discipline, preach, and otherwise have authority over children, the Diocese, Parish, and School affirmatively or implicitly represented to the public, Plaintiffs, their parents and guardians that Schieder did not and does not pose a threat to children at the School or attending the Parish church or other activities.
- 15.3. The Diocese, Parish, and School falsely stated that Schieder was an appropriate role model, teacher, pastor, mentor, and counselor for Plaintiffs, that Schieder's character, fitness, ethics, behavior, and morality were worthy of trust and confidence of Plaintiffs, their parents, and guardians.
- 15.4. Defendants affirmatively concealed Schieder's history of Sexual Offenses from the public, Plaintiffs, their parents and guardians.
- 15.5. Defendants failed to warn the public, Plaintiffs, their parents and guardians of the risk Schieder posed to Plaintiffs.

- 15.6. Defendants Diocese, Parish, and School knew or should have known that employing child molesters and giving them access to children is likely to result in Sexual Offenses being committed.
- 15.7. The Diocese has publicly disclosed and admitted Schieder's history of committing Sexual Offenses while employed at the Diocese, Parish, and School.
- 15.8. Schieder intentionally touched Plaintiffs' bodies without consent, perpetrating Sexual Offenses against each Plaintiff, less than the age of eighteen, on the real property of and using the assets of the Diocese, Parish, and School. Only the frequency, severity, and longevity of the Sexual Offenses varied.
- 15.9. Schieder perpetrated Sexual Offenses against each Plaintiff that were facilitated by employees and volunteers of the Diocese, Parish, and School.
- 15.10. Schieder perpetrated Sexual Offenses against each Plaintiff while Schieder was employed by and/or under the supervision and control of the Diocese, Parish, and School.
- 15.11. Defendants jointly and individually owed Plaintiffs an ordinary duty of care, a special duty of care, and/or a heightened duty of care and/or protection.
- 15.12. One source of the duties Defendants owed Plaintiffs arose from Defendants accepting the care, custody, and control of Plaintiffs *in loco parentis* as students and parishioners.

- 15.13. Defendants also owed Plaintiffs a duty of care in hiring, supervising, and retaining Schieder, evaluating his performance, and investigating unreasonable behaviors, inappropriate anger, and violence.
- 15.14. Defendants, by and through their agents, servants, and employees, knew or should have known of Schieder's dangerous, criminal, and exploitive propensities, including but not limited to Sexual Offenses against and physical abuse of Plaintiffs.
- 15.15. Defendants breached their duty of care to Plaintiffs by, among other things:
- 15.15.1. failing to implement reasonable safeguards to prevent Schieder from having contact with Plaintiffs; from being alone with Plaintiffs; from having access to private locations in which he could commit Sexual Offenses on Plaintiffs.
 - 15.15.2. failing to create, implement, and maintain a system or procedure to supervise and monitor employees and volunteers to insure they did not molest or abuse minors in Defendants' care, including the Plaintiffs.
 - 15.15.3. allowing Schieder to be alone with each Plaintiff;
 - 15.15.4. allowing Schieder to be alone with each Plaintiff repeatedly, unscheduled, in contravention of the Plaintiffs' programmed school and church obligations, for extended periods of time, without explanation by Schieder of the purpose, activity, or justification;

15.15.5. failing to use reasonable care in connection with the hiring, supervision, and/or retention of Schieder;

15.15.6. failing to adequately investigate Schieder's acts of violence, outbursts of anger, private meetings with Plaintiffs and demands for private meetings with Plaintiffs;

15.15.7. failing to adequately investigate evidence of and reports regarding Schieder's Sexual Offenses against and physical abuse of Plaintiffs,

15.15.8. failing to warn Plaintiffs' parents, guardians, or law enforcement officials of the evidence of and reports regarding Schieder's Sexual Offenses against and physical abuse of Plaintiffs,

15.15.9. creating and implementing a policy and practice of concealing evidence, reports, and suspicions of Schieder and other priests having had committed Sexual Offenses against and/or physical abuse of others.

15.15.10. creating and implementing a policy and practice of transferring to other parishes, schools, assignments, or service Schieder and other priests who were known to have, or suspected of, or reported to having had committed Sexual Offenses against and/or physical abuse of others.

15.15.11. creating and implementing a policy and practice whereby Defendants' agents, servants, and employees, participated in, enabled, and/or concealed Schieder's Sexual Offenses against and physical abuse of Plaintiffs.

- 15.16. The nature of Schieder's Sexual Offenses against and physical abuse of Plaintiffs is predominantly the same, including but not limited to: requiring Plaintiffs to stand still in front of Schieder; Schieder's sexualized hugging, kissing, rubbing, massaging, or placing of his hand on Plaintiffs' shoulder, arm, back, thigh, knee, buttocks, groin and genitals; Schieder's requiring Plaintiffs to undress in front of Schieder (usually lower their pants and underpants); Schieder's fondling of Plaintiffs' bare thighs, buttocks, and genitals; Schieder's fondling and masturbation of Plaintiffs' bare genitals; Schieder's kissing, licking, sucking, and orogenital contact with Plaintiffs' penis; and Schieder's compelling Plaintiffs to orgasm or ejaculate.
- 15.17. The Sexual Offenses, assaults, batteries, child abuse, and molestation where orchestrated, choreographed, implemented, and perpetrated in predominantly the same manner with each Plaintiff.
- 15.18. Schieder used forcible compulsion, as defined in New York Penal Law § 130.00 (8), to engage in the behaviors alleged herein, without Plaintiffs' consent.
- 15.19. Plaintiffs were incapable of consent because each was less than eighteen years old when Schieder engaged in the behaviors alleged herein.
- 15.20. Employees of Defendants Diocese, Parish, and School, participated in Schieder's perpetration of Sexual Offenses against Plaintiffs. Among the overt acts of the employees are:

- 15.20.1. Answering the phone when Rev. Schieder called the School from the Parish's rectory, naming who he wanted to in his office.
- 15.20.2. Finding the Plaintiff whom Schieder requested, removing him from what he was doing, and escorting him to the School principal's office.
- 15.20.3. Using force—grabbing by the shoulder or arm—and threats of punishment to gain Plaintiffs' compliance to leave his current activity.
- 15.20.4. Calling the rectory to inform Schieder that the requested Plaintiff was ready.
- 15.20.5. Answering the phone when Schieder called back saying he was ready.
- 15.20.6. Escorting Plaintiffs to Schieder's Parish rectory office.
- 15.20.7. Using force—grabbing by the shoulder or arm—and threats of punishment to gain Plaintiffs' compliance
- 15.20.8. Leaving Plaintiffs alone in Schieder's office, and closing the door.
- 15.21. Employees of Defendants Diocese, Parish, and School, failed to act to prevent Schieder's perpetration of Sexual Offenses against Plaintiffs.
Among the omissions of the employees are:
 - 15.21.1. Not reporting the fact that and frequency which Schieder would approach one of the Plaintiffs and require the Plaintiff to accompany Schieder to his office alone.

15.21.2. Not reporting the number of Plaintiffs Schieder saw alone, nor the length of time spent alone, nor the lack of a valid reason or justification for the meetings.

15.21.3. Not reporting the fact and frequency of occasions on which Schieder would remove a Plaintiff from the Plaintiff's scheduled activity, including classroom instruction.

15.21.4. Not reporting the changes in Plaintiffs immediately after the meetings, and over time.

15.21.5. Not reporting the fact and frequency of occasions on which Schieder would disrupt an activity by entering the room, yelling, throwing furniture, grabbing students, and engaging in other violent behavior, thereby intimidating Plaintiffs.

15.22. Schieder's euphemism for his Sexual Offenses was that he needed to give Plaintiffs a "check up." Schieder said he gave other Plaintiffs "check ups" (used herein to mean Sexual Offenses).

15.22.1. Schieder's "check ups" comprised some or all of the actions detailed in paragraph 15.16 above, including: instructing Plaintiffs to that take down their pants; Schieder's touching, stroking, and fondling Plaintiffs' thighs, buttocks, and genitals; Schieder manually and orally manipulating Plaintiffs' genitals to orgasm; Schieder having a towel on his lap; telling the Plaintiff to dress; and telling the Plaintiff words to the

effect of: "Get on back to class now. Remember, don't tell anyone. This is between you, myself and God."

15.22.2. Schieder groomed each Plaintiff for sexual contact, including but not limited to, granting privileges, such as the honor of serving as an altar boy.

15.22.3. Schieder used threats of violence, punishment, expulsion, damnation, and excommunication to gain compliance of and secrecy from Plaintiffs.

15.23. The injuries, harms, and damages each Plaintiff suffered are predominantly the same:

15.23.1. Physical injuries to the perineum and genitals (prepuce, frenulum, penis shaft, penis base, glans, urinary meatus, and scrotum) including but not limited to abrasions, lacerations, petechial hemorrhages, lesions, color changes, rashes, erythema, patches, elevations of skin, blisters, scales, epidermal thickening, epidermal atrophy, internal soreness, bruising, and scars;

15.23.2. Physical injuries to the buttocks and anus including but not limited to abrasions, lesions, color changes, and tears;

15.23.3. Loss of blood flow including but not limited to weakness, fast heart rate, fast breathing, sweating, anxiety, and thirst;

15.23.4. Muscle strain in neck, back, shoulders, hips, knees, legs; headaches, loss of balance, and dizziness;

- 15.23.5. Disturbed sleep, insomnia, somnambulism, nightmares, bed wetting and fecal soiling beyond the usual age;
- 15.23.6. Eating disorders including but not limited to bingeing, bulimia, anorexia, loss of appetite, irritable bowel syndrome, dyspepsia, chronic abdominal pain;
- 15.23.7. Depression, anxiety, low self-esteem, PTSD re-experiencing, avoidance, numbing, hyperarousal, increased or inappropriate sexual behavior, problems with being touched, loss of social competence, cognitive impairment, and body image concerns, and substance abuse;
- 15.23.8. Changes in mood, personality, gait, posture, affect, and energy, loss of joy, expansion of temper, social withdrawal, embarrassment, loss of self-esteem, disgrace, humiliation, decreased participation in school and parish activities, decreased success, problems with authority, lost concentration, lost ambition, and lowering of grades;
- 15.23.9. loss of earnings and earning capacity; and
- 15.23.10. expenses for medical, physiological, psychological treatment, therapy, and counseling.

16. The Named Plaintiff's claims are typical of the claims of other members of the Plaintiff Class under Section 901 (a)(3) because he was subjected to Schieder's Sexual Offenses weekly, when School was in session, about 70 times, beginning on or about the end of November 1968, through the end of 7th grade, June 1970.

17. The Named Plaintiff will fairly and adequately represent the interests of the Plaintiff Class in accordance with Section 901(a)(4) and has no interest antagonistic to the Plaintiff Class.
18. A class action is superior to other available methods for a fair and efficient adjudication of the controversy under Section 901 (a)(5).
19. A class action ensures consistency among Plaintiffs' cases regarding Defendants' liability, established uniformly and at once for all class members.
20. Proof of Defendants' liability to all Plaintiffs relies upon the same evidence of acts and omissions which enabled Schieder to commit the Sexual Offenses, for example:
- 20.1. evidence that Plaintiffs' allegations of sexual abuse are consistent with allegations made by other individuals concerning known alleged abusers;
 - 20.2. evidence establishing that the Diocese, Parish, and School had prior notice of Schieder's propensity to commit the Sexual Offenses;
 - 20.3. evidence establishing that contemporaneous notification of Schieder's Sexual Offenses was given to Diocese, Parish, and/or School officials, law enforcement authorities, parents, friends, and/or others; and
 - 20.4. evidence of medical or counseling records relevant to Schieder's Sexual Offenses.
21. In addition to relieving the courts of time-consuming, docket-clogging, repetitious cases, a class action would increase the net recovery of each Plaintiff because the class would retain a small set of class-action lawyers rather than each retaining his own contingency-fee lawyer.

22. Further, Defendants would resolve all claims arising from Schieder's Sexual Offenses in one case.

23. Society at-large would benefit from knowing the rights of all child victims if Msgr. Schieder were adjudicated; each victim had his day in court and his individual rights were determined.

24. Without access to a class, upon information and belief, many victims of Schieder's Sexual Offenses would not come forward. They may not be aware of their rights without seeing a notice of class action. They may prefer not to expose themselves publicly and by fighting alone the Diocese and the Roman Catholic Church. They would not have the financial means to pay expenses. They may not have access to counsel capable of prosecuting their claims; or, they may lack the ability to retain competent counsel. Yet, they would respond to a notice of a class action because the lawyers would be in place and they would bring their case with the support and understanding of similarly situated people who were child victims of Msgr. Schieder.

FACTS COMMON TO ALL CLAIMS

25. The Diocese, at all times relevant herein, organized, owned, operated, and controlled St. Andrew's Parish.

26. The Diocese, at all times relevant herein, organized, owned, operated, and controlled St. Andrew's Country Day School.

27. The Diocese, at all times relevant herein, employed Schieder.

28. Schieder, at all times relevant herein, was an ordained, practicing Roman Catholic diocesan priest.

29. The Diocese, at all times relevant herein, had jurisdiction and control of Schieder and assigned Schieder the following duties:

29.1. at the School of teacher and headmaster; therefore, ultimately responsible for the safety and well-being of anyone on the property for any reason (even pedestrians crossing the lawn, or trespassing), as well as: teaching; discipline, order, and ethics; curricula and programming development and implementation; supervising teachers, aides, assistants, administrative and maintenance staff, counselors, and volunteers; fund raising and purchasing; and maintaining, operating, and repairing the School buildings, grounds, property, and equipment; and community relations;

29.2. within the Parish of being another Christ, *in persona Christi capitis*, responsible for: spiritual leader performing mass, funerals, adorations, benedictions sermons, and transubstantiating bread and wine into the body and blood of Christ; teacher of the faith, doctrine, and rites; pastoral counselor: sanctifying and celebrating the sacraments of Baptism, the Eucharist, Confirmation, Penance, Marriage, and Anointing the Sick.

30. The Diocese, at all times relevant herein, had jurisdiction and control of Schieder and permitted him to serve outside the Parish and Diocese to found the National Catholic Camping Association, direct the youth department for the National Catholic Welfare Conference in Washington, D.C. and direct the national Catholic Youth Organization.

31. On or around late November or early December 1968, Msgr. Schieder summoned to his office in the rectory, the Named Plaintiff Harrington for a "check up." Harrington had just turned 11 years old on November 24th.

32. Weekly, when school was in session, from the end of November 1968 through June 1970, while Named Plaintiff was less than eighteen years old, Schieder summoned to his office in the rectory the Named Plaintiff Harrington for a "check up," namely, Sexual Offenses, battery, assault, child abuse, and molestation.

33. Only through the Diocese assigning Schieder duties at the Parish and School did Schieder meet, have contact with, and authority over the Named Plaintiff and other members of the Plaintiff class.

34. Schieder used his position of authority, control, and trust over Plaintiffs and the employees of and volunteers at the Parish and School to commit Child Sexual Abuse against Plaintiffs.

35. Plaintiffs have suffered and continue to suffer: pain of mind and body; shock; severe and permanent emotional distress, and physical manifestations of emotional distress; feeling that their innocence was stolen and their lives were ruined as well as other damages as set forth in paragraph 15.23, above.

36. As a direct result of the Defendants' conduct described herein, Plaintiffs suffered and will continue to suffer great pain of mind and body, emotional distress, physical manifestations of emotional distress.

FIRST CAUSE OF ACTION

Negligent Hiring, Retention, Supervision, Direction

37. Plaintiffs repeat and reallege allegations in paragraphs 1 through 36.

38. Teachers and other school employees, particularly teachers and administrators owe a duty of care to a student's health, safety, and well-being as well as they are learning.

39. The Diocese, as owner and operator of the School, owed a duty of care to students, including Plaintiffs, enrolled in School to provide a healthy, safe, and nurturing environment.

40. Under the circumstances present here and given the conduct of Father Schieder and the notice of such conduct that all Defendants had, the perpetration of a Sexual Offense on students by School employees such as Schieder and the other employees who facilitated Schieder's misconduct was foreseeable by the Diocese, Parish and School.

41. The Diocese, Parish and School were negligent in hiring, supervising, training, and retaining Schieder and those who facilitated Schieder's misconduct.

42. The Diocese, Parish, and School knew or should have known of Schieder's propensity for the conduct which caused Plaintiffs' injuries before Schieder injured Plaintiffs.

43. Many of Schieder's means of intimidation were overt; many occurred in rooms of students, faculty, staff, and employees of the Diocese, Parish and School and otherwise were known, should have been known and/or were obvious to Defendants.

44. Upon information and belief, Schieder intimidated the Diocese's, Parish's, and School's faculty, staff, students, priests, deacons, congregants, and visitors, as well as parents and members of the public. Schieder used intimidation to gain and maintain power, authority, compliance, and discipline.

45. Upon information and belief, Schieder's methods of intimidation included but were not limited to: throwing desks, chairs, furniture, books and other personal property; slapping, punching, hitting, grabbing, pulling people; spanking bare buttocks with a belt, stick, ruler, or hand; and yelling, screaming, shouting, and gesticulating.

46. Upon information and belief, Schieder's methods of intimidation included but were not limited to: threatening to tell Plaintiffs' parents that Plaintiffs did not behave, obey, succeed; threatening to withdraw privileges from Plaintiffs; expelling Plaintiffs from School; determining and announcing that Plaintiffs had sinned before God and Christ; and excommunicating Plaintiffs from the Roman Catholic Church.

47. Upon information and belief, Schieder's methods of intimidation included but were not limited to telling Plaintiffs that: Schieder engaged in Sexual Offenses with others; that others received the same "check ups"; and that such "check ups" were natural.

48. Upon information and belief, Schieder's methods of intimidation included but were not limited to telling Plaintiffs that:

48.1. "This is a totally private matter between you, myself and God."

- 48.2. "What we are doing is confidential. Sacred actually. If you tell anybody, anybody, you will be in a lot of trouble. There's no point in committing any sins."
- 48.3. If the Plaintiffs told anybody, they were informed by Schieder that it would be a sin against God. Schieder repeated this multiple times during each "check up".
- 48.4. "Don't be scared. It's just time for another checkup."
- 48.5. "Don't be scared. It's a natural checkup."
- 48.6. "Don't be scared. Don't tell anybody. It's a natural checkup."
49. Upon information and belief, the Diocese, Parish and School knew or should have known Schieder, more than once, had inappropriate interactions with Plaintiffs, while he was on duty and/or on the property of the Parish or School.
50. Upon information and belief, Diocese, Parish and School knew or should have known Sexual Offenses were among Schieder's inappropriate interactions with Plaintiffs while he was on duty and/or on the property of the Parish or School.
51. Upon information and belief, employees of the Diocese, Parish or School counseled Schieder to stop inappropriate meetings and activities with Plaintiffs.
52. Upon information and belief, employees of the Diocese, Parish or School refreshed Schieder's training, or provided new or updated training, to stop inappropriate meetings and activities with Plaintiffs, but did not take the necessary measures to ensure that Schieder ceased engaging in Sexual Offenses.

53. Upon information and belief, the Diocese, Parish or School disciplined Schieder for his inappropriate meetings and activities with Plaintiffs, but did not take the necessary measures to ensure that Schieder ceased engaging in Sexual Offenses.

54. The Diocese, Parish and School failed to perform reasonable interventions to remedy Schieder's inappropriate meetings and activities with Plaintiffs.

55. The Diocese, Parish and School failed to adequately investigate Schieder's inappropriate meetings and activities with Plaintiffs.

56. The Diocese, Parish and School failed to adequately react to reasonable suspicions of Schieder's inappropriate meetings and activities with Plaintiffs, thereby causing them harm.

57. The Diocese, Parish, and School failed to adequately train, retrain, discipline, reassign or fire Schieder.

58. The above failures of the Diocese, Parish, and School were negligent.

59. The above failures of the Diocese, Parish, and School caused Plaintiffs harm as described above.

60. It was foreseeable that the misconduct of Schieder and the failure of the Diocese, Parish and School to take appropriate measures to ensure that Schieder did not have access to Plaintiffs would cause harm to Plaintiffs.

61. The actual harms Schieder and the above failures of the Diocese, Parish and School caused Plaintiffs were foreseeable and did, in fact, cause harm to Plaintiffs.

62. By reason of the foregoing, the Diocese, Parish and School are jointly and severally liable to Plaintiffs for compensatory and punitive damages, attorneys' fees, interest and costs.

SECOND CAUSE OF ACTION

Respondeat Superior Negligence, Gross Negligence

63. Plaintiffs repeat and reallege paragraphs 1 through 62.

64. Schieder engaged in the actions detailed above:

64.1. while at his place of employment;

64.2. during his scheduled working hours;

64.3. within the ordinary course of performance of duties for the Diocese, Parish, and School assigned him.

65. Meeting privately with students is within the scope of Schieder's employment.

66. Under the circumstances present here and given the conduct of Schieder and the notice of such conduct that all Defendants had, it was foreseeable that employees of the Diocese, Parish, and School such as Schieder and the employees would abuse their power, authority, trust, and prerogatives.

67. It is foreseeable that some of the abuse that employees of the Diocese, Parish and School would commit would be to discipline or gain compliance of students and staff through violent, physical contact and control of students and staff, as well as yelling, screaming and berserk gesticulations in the presence of students and staff.

68. It is foreseeable that some of the abuse that employees of the Diocese, Parish and School, such as Father Schieder, would commit during private meetings with students would be Sexual Offenses.

69. Defendants Diocese, Parish and School knew, or were negligent in not knowing, that Schieder posed a threat of sexual abuse to children.

70. Defendants Diocese, Parish and School owed Plaintiffs a duty to prevent Schieder's Sexual Offenses.

71. Defendants Diocese, Parish and School owed Plaintiffs a duty to protect them from Schieder's Sexual Offenses, prior to and subsequent to Schieder's actions.

72. Defendants Diocese, Parish and School breached their duties to Plaintiffs willfully, wantonly, grossly negligently and negligently by acts of commission and omission.

73. The breaches of Defendants Diocese, Parish and School of their duties to Plaintiffs were the actual, direct cause of Plaintiffs' damages.

74. The breaches of the duties of Defendants Diocese, Parish and School to Plaintiffs were the proximate cause of Plaintiffs' damages.

75. Defendants Diocese, Parish and School are jointly and severally liable to Plaintiffs for compensatory damages, punitive damages, attorneys' fees, interest, and costs.

THIRD CAUSE OF ACTION AS TO ALL DEFENDANTS

Breach of Fiduciary Duty

76. Plaintiffs repeat and reallege paragraphs 1 through 75.

77. The Diocese, Parish and School, put Schieder in direct contact with Plaintiffs by placing him in positions of authority, control, and trust and by facilitating his access to Plaintiffs. Among other things, Schieder was specifically being assigned to be School headmaster, teacher of academic subjects, and pastor providing Roman Catholic religious instruction, counseling, and spiritual guidance and also was given access to Plaintiffs upon request without providing any reasonable basis for his demands for private meetings with Plaintiffs.

78. Schieder used his positions of authority, control, and trust over Plaintiffs to commit Sexual Offenses.

79. Diocese, Parish and School accepted fiduciary relationships of trust, confidence, and reliance with Plaintiffs, their parents, and guardians.

80. Diocese, Parish and School accepted responsibility for the well-being, care and safety of Plaintiffs.

81. Diocese, Parish and School breached their duties to Plaintiffs.

82. Diocese's, Parish's and School's actions and inactions were willful, wanton, malicious, reckless, grossly negligent and outrageous in their disregard for the rights and safety of Plaintiffs.

83. As a direct result of said conduct, Plaintiffs suffered injuries and damages described herein.

84. Defendants are jointly and severally liable to Plaintiffs for compensatory damages, punitive damages, and for attorneys' fees, interest and costs.

FOURTH CAUSE OF ACTION

Breach of Non-Delegable Duty

85. Plaintiffs repeat and reallege paragraphs 1 through 84.
86. At all times material hereto Schieder was under the direct supervision, employ and/or control of the Defendants Diocese, Parish and School.
87. Defendants Diocese's, Parish's and School's duties of providing Plaintiffs a safe school and church environment were non-delegable.
88. Defendants Diocese, Parish and School knew or should have known of Schieder's Sexual Offenses against Plaintiffs.
89. Defendants Diocese, Parish and School were in the best position to prevent Schieder's Sexual Offenses against Plaintiffs.
90. Defendants breached their non-delegable duties to Plaintiffs because Schieder's Sexual Offenses against Plaintiffs occurred while Plaintiffs were parishioners or students of Defendants Diocese, Parish and School.
91. As a direct result of Schieder's conduct, and Defendant Diocese's, Parish's and School's actions and failures to act, Plaintiffs suffered injuries and damages described herein.
92. Defendants Diocese, Parish and School are jointly and severally liable to Plaintiffs for compensatory damages, punitive damages, and for attorneys' fees, interest and costs.

FIFTH CAUSE OF ACTION

Negligent Infliction of Emotional Distress

93. Plaintiffs repeat and reallege paragraphs 1 through 92.
94. Schieder's conduct, and Defendants' actions and failures to act described herein, were negligent or grossly negligent, and constitute an aggravated or magnified failure to use the care a reasonable person would use to avoid injury to other people.
95. Defendants knew or should have known that their conduct would result in severe mental and emotional distress to Plaintiffs.
96. Defendants' negligence or gross negligence, caused Plaintiffs' mental and emotional distress.
97. A reasonable person, normally constituted, would be unable to adequately cope with the mental and emotional stress Defendants caused Plaintiffs.
98. Defendants' negligent or grossly negligent breaches of duties were the actual, legal cause and proximate cause of Plaintiffs' mental and emotional distress described herein, and of the damages Plaintiffs' suffered, described herein.
99. Defendants are jointly and severally liable to Plaintiffs for compensatory damages, punitive damages, and for attorneys' fees, interest and costs.

SIXTH CAUSE OF ACTION

Intentional Infliction of Emotional Distress

100. Plaintiffs repeats and realleges paragraphs 1 through 99.
101. Schieder's conduct, and Defendants' actions and failures to act described herein, were unreasonable, extreme, outrageous, intentional, and reckless.

102. Defendants' actions and failures to act described herein transcend the bounds of decency, and are atrocious and intolerable.

103. Defendants' actions and failures to act described herein disregarded a substantial probability of causing each Plaintiff severe mental and emotional distress.

104. Defendants' actions and failures to act described herein were the actual, legal cause and proximate cause of Plaintiffs' mental and emotional distress described herein, and of the damages Plaintiffs suffered, described herein.

105. Defendants are jointly and severally liable to Plaintiffs for compensatory damages, punitive damages, and for attorneys' fees, interest and costs.

SEVENTH CAUSE OF ACTION

Breach of Duty in Loco Parentis

106. Plaintiffs repeat and reallege paragraphs 1 through 105.

107. Plaintiffs, when less than eighteen years old, were entrusted by their parents or guardians to the control of the Diocese, Parish and School for the purposes of providing Plaintiffs an academic education and Roman Catholic religious instruction, counseling, and spiritual guidance.

108. Defendants Diocese, Parish and School owed a duty to Plaintiffs to prevent foreseeable injuries *in loco parentis*.

109. Defendants Diocese, Parish and School breached their duty *in loco parentis*.

110. Defendants Diocese's, Parish's and School's actions and failures to act were negligent, grossly negligent, willful, wanton, malicious, reckless, and outrageous in their disregard for the rights and safety of Plaintiffs.

111. Defendants Diocese's, Parish's and School's negligent or grossly negligent breaches of their *in loco parentis* duties were the actual, legal cause and proximate cause of Plaintiffs' mental and emotional distress described herein, and of the damages Plaintiffs suffered, described herein.

112. Defendants Diocese, Parish and School are jointly and severally liable to Plaintiffs for compensatory damages, punitive damages, and for attorneys' fees interest and costs.

EIGHTH CAUSE OF ACTION

Breach of Statutory Duty to Report Abuse under Soc. Serv. Law §§ 413, 420

113. Plaintiffs repeat and reallege paragraphs 1 through 112.

114. The Diocese, Parish and School had a duty to report reasonable suspicions of abuse of children in their care pursuant to NY Soc. Serv. §§ 413 and 420.

115. Defendants breached that duty by knowingly and willfully failing to report reasonable suspicions of abuse by Schieder of Plaintiffs.

116. As a direct and/or indirect result of said conduct, Plaintiffs have suffered injuries and damages described herein. Defendants' breaches of NY Soc. Serv. §§ 413 and 420 were the actual, legal cause and proximate cause of Plaintiffs' mental and emotional distress described herein, and of the damages Plaintiffs suffered, described herein.

117. Plaintiffs' mental and emotional distress described herein, and of the damages Plaintiffs suffered, described herein are within the class of harms NY Soc. Serv. §§ 413 and 420 are designed to prevent.

118. Schieder and his Sexual Offenses against Plaintiffs are within the class of actions NY Soc. Serv. §§ 413 and 420 are designed to prevent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against the Defendants Diocese, Parish and School, jointly and severally, on all Causes of Action in an amount to be determined by the trier of fact, including each class members' actual damages, plus interest, for a total amount that is expected to exceed \$25 Million, plus pre and post-judgment interest, punitive damages, costs, attorneys' fees and expenses, and such other relief as the Court deems proper and just.

Dated: August 14, 2019
Buffalo, New York

STEVEN FOX, P.C.


Steven S. Fox, Esq.
122 Deerpark Blvd.
Buffalo, NY 14217
Tel: 716-852-3800
sfox@CreativeLawyer.com

SCHRÖDER, JOSEPH & ASSOCIATES, LLP

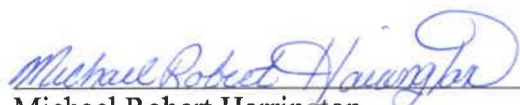
s/Linda H. Joseph
Linda H. Joseph Esq.
Alicia C. Rood, Esq.
392 Pearl Street, Suite 301
Buffalo, NY 14202
Tel: (716) 881-4902
Fax: (716) 881-4909
ljoseph@sjalegal.com

Attorneys for Plaintiff, Michael Robert Harrington, on behalf of himself and all similarly situated persons

VERIFICATION

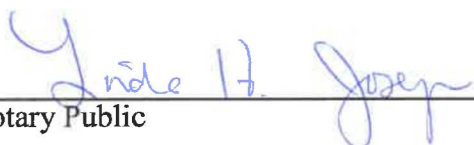
STATE OF NEW YORK)
) SS:
COUNTY OF ERIE)

Michael Robert Harrington, being duly sworn, states under penalty of perjury that I am the Plaintiff in this action, and that the allegations in the foregoing Complaint are true to my own knowledge, except as to those matters therein stated on information and belief and as to those matters I believe them to be true and that the grounds for said knowledge are my personal knowledge.



Michael Robert Harrington

Subscribed and sworn to before me
this 12th day of August, 2019.



Notary Public

LINDA H. JOSEPH
NOTARY PUBLIC-STATE OF NEW YORK
No. 02JO4943227
Qualified in Erie County
My Commission Expires October 17, 2022